IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3938 OF 2003

Sitaram Laxman Hande .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3940 OF 2003

Sampat Namdev Chavan & Ors. .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3941 OF 2003

Shashikant Anant Vishwasrao .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3942 OF 2003

Mr.Salim Dildar Pathan & Ors. .. Petitioners
V/s
Maharashtra Public Service Commission
& Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3944 OF 2003

Sanjay Babanrao Bhosale .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3923 OF 2003

Mr.Yuvraj Wamanrao Bhat & Ors. .. Petitioners
V/s
Maharashtra Public Service Commission
& Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3937 OF 2003

Nandkumar Mahadev Parab & Ors. .. Petitioners
V/s
The State of Maharashtra & Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.3946 OF 2003

Pradeep Gopinath Salekar & Ors. .. Petitioners
V/s
The State of Maharashtra & Ors. .. Respondents

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Mr.P.M.Pradhan for the Petitioners in W.P.Nos.3938/2003, 3940/2003, 3941/2003, 3944/2003 and 3946/2003.

Mr.A.G.Damle for the Petitioners in W.P.No.3937/2003.

Mr.S.B.Shetye for the Petitioners in W.P.Nos.3942/2003 and 3923/2003.

Mr.S.R.Nargolkar (AGP) for the State of Maharashtra & the Police Commissioner in all the Petitions.

Mr.R.V.More for the M.P.S.C.

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CORAM: S.RADHAKRISHNAN &
SMT.V.K.TAHILRAMANI, JJ.

DATE : 22.12.2004.

P.C.:

1. Heard the learned Counsel for the parties. It appears that the Petitioners in all the above-mentioned Petitions were not eligible to appear in the Departmental Examination as on 1st January, 1991. In view thereof, the proviso to Rule 3 (ii) of the Police Sub-Inspector (Recruitment Rules) 1995 will not be applicable to them. However, in view of the order which we propose to pass today, it would be relevant to quote the said proviso. The said proviso to Rule 3(ii) reads as under:-

"Provided further that the candidates who were eligible to appear for the limited departmental examination as on 1st January, 1991, but could not appear as the said examination was not conducted since 1st January, 1991: and as such, have been deprived of the opportunity on account of the age limit, shall be given three chances to appear for three consecutive examinations to be held from 1997 onwards."

2. The Petitioners in all these Petitions had, for the first time appeared for the Departmental Examination in the year 1998. However, it appears that the Maharashtra Public Service Commission (MPSC) held the next examination in the year 2003. For the said 2003 examination, the Petitioners had approached this Court however this Court had not granted any ad-interim relief permitting the Petitioners to appear in the said Departmental Examination. The learned Counsel for the Petitioners submit that as per the aforesaid proviso, the candidates who were eligible to appear on 1st January, 1991 were permitted to appear for three consecutive examinations to be held from 1997 onwards, and hence the present Petitioners also ought to be granted the similar relief. The learned Counsel for the Petitioners submit that though the MPSC was supposed to conduct the examinations, it has not conducted the said examinations after 1998, and the next examination was conducted was only in the year 2003. It may be noted here that the MPSC could not hold the examinations during the years 1998 to 2002 because the State Government had not made any request for conducting the same.

3. Having regard to the peculiar facts and circumstances of the case, and as there was no fault on the part of the Petitioners, and in the larger interest of justice, we direct the State Government to consider whether to provide a similar provision by way of an amendment to the proviso to the above Rule 3(ii) to enable the Petitioners and such other similarly situated police constables to have two more consecutive chances to appear for the examinations, to be conducted by Maharashtra Public Service Commission.

4. Mr.More the learned Counsel appearing for the MPSC makes a statement on instructions that if the State Government amends the aforesaid Rule to the effect that the Petitioners and such other similarly situated police constables would be permitted to appear for two more consecutive examinations, and if the State Government requests the MPSC to hold such a departmental examinations, the MPSC is ready and willing to hold such examinations. Accordingly, we direct the State Government to take a decision in the above on or before 28.2.2005.

5. All the learned Counsel for all the parties consent that the aforesaid Petitions can be disposed of in terms of the above. Hence all the Petitions stand disposed of in terms of the above.

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